THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.Nos.6702, 9196, 9213, 15434, 15448, 15918,

15920, 15928, 15933, 16983, 17241 and 18123 of 2006

Date: 23-10-2006

W.P.No.6702 of 2006

Between :-

Hotel Sai Lodge, 9-4-148 to 153,
St.Mary's Road, Secunderabad,
Rep. by its partner N.Krishna Murthy ..
Petitioner

And

The Municipal Corporation of Hyderabad rep.by
Its Commissioner, Tankbund Road, Hyderabad
And aother ..
Respondents

THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.Nos.6702, 9196, 9213, 15434, 15448, 15918, 15920, 15928, 15933, 16983, 17241 and 18123 of 2006

COMMON ORDER:-

Heard the Counsel.

2. These matters though appearing under the caption *'Interlocutory'*, at the request of the Counsel on record, the matters are being finally disposed of.

3. It is stated that similar Writ Petitions were disposed of in W.P.No.5825/2006 and batch. In all these Writ Petitions, except in W.P.No.6702/2006 and W.P.No.17241/2006, Nest Enterprises Private Limited is shown as R.3. In W.P.No.6702/2006 the said Nest Enterprises Private Limited is not shown as party and in W.P.No.17241/2006 it is shown as R.2.

4. The factual matrix and questions of law involved in all these Writ Petitions being the same the details need not be narrated as the facts narrated in the batch of Writ Petitions had been already disposed of and in view of the elaborate order made in W.P.No.5825/2006 & batch, this Court is of the considered opinion that these Writ Petitions

be disposed of on the same lines as had been already disposed of by this Court in the aforesaid batch. Accordingly, these Writ Petitions are being disposed of as specified infra:-

> "In the light of the fact-situation, wherever the statute ordains a particular act to be done in a particular manner, the same may have to be done as specified therein unless and otherwise any other procedure be permitted to be followed in accordance with law. There cannot be any two opinions relating to this aspect. Making demand, collection of fee or collection of tax, these are all aspects governed by specific statutory provisions. It is needless to say that the Municipal Corporation of Hyderabad being creation of a statute and being a statutory body, the duties expected to be discharged or performed by the Corporation to be performed by the Corporation itself or through its officials and the realm or the operation of the private agencies and the scope and ambit thereof in relation thereto would be very very limited. This Court is not inclined to express any opinion relating to the contract said to have been entered by the

Corporation in favour of a private agency. This Court also is not inclined to express any further opinion whether the private agency who had been entrusted with this duty had made excessive demands or only such demands which were specified by the Municipal Corporation as such. But however, in the light of the language employed in Section 421 of the Act, this Court is of the considered opinion that to attract the provisions of Section 421 of the Act, the Corporation must satisfy itself first that the provisions are attracted and hence the fee/demand can be levied. This exercise to be made in individual cases and in the peculiar facts and circumstances especially in the light of the decision of the Apex Court referred (7) supra and also the views expressed by the Division Bench of this Court referred (2) supra, this Court is of the considered opinion that the impugned demand notices as such cannot be sustained and accordingly the said demands made are hereby quashed and the matters are remitted to the Corporation to give opportunity to the individual writ petitioners to make their individual representations and let the Corporation consider

and look into such objections which would be raised by the respective writ petitioners and pass appropriate orders in this regard in accordance with law. Accordingly, let the petitioners make such representations as early as possible, preferably within a period of four weeks from the date of receipt of this order and the Corporation to take an early decision in relation thereto thereafter."

5. Accordingly, in the light of the Orders made in W.P.No.5825/2006 & batch dated 28-9-2006, these Writ Petitions are allowed to the extent indicated above. No order as to costs.

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Justice P.S.Narayana

23rd October, 2006

smr